

STATE OF CONNECTICUT
DEPARTMENT OF CONSUMER PROTECTION

IN THE MATTER OF
Cracker Barrel Cafe
Denise Pasquariello, Permittee
Alltor, LLC Backer
Permit LCA.6751

Case No. 2012-1323
Docket No. 13-439
July 16, 2013

MEMORANDUM OF DECISION

This matter involves a café liquor permit issued to Cracker Barrel Café, 30 Main Street, Tariffville, Connecticut. A formal administrative hearing was held before the Department of Consumer Protection on May 2, 2013. Denise Paquariello, permittee, appeared at the hearing.

The allegations against the permit premises arose from a special investigation conducted by the Department of Consumer Protection's Liquor Control Division. It is alleged that on or about August 23, 2012, the Respondent violated: (1) Section 30-86 of the Connecticut General Statutes by selling or delivering alcoholic liquor to an intoxicated person; (2) Section 30-90 of the Connecticut General Statutes by permitting an intoxicated person to remain in the barroom; and (3) Section 30-53 of the Connecticut General Statutes in that the liquor permit had not been filed with the Simsbury Town Clerk. The respondent denied Charges 1 and 2 and admitted Charge 3 and the matter proceeded to a hearing

The following facts are found based upon the testimony and documents presented at the hearing. On August 23, 2012, at approximately 10:00 p.m., Special Agents Colla and Boucher and Agent Lewis entered Cracker Barrel Café in an undercover capacity to observe the conduct of the premises. Only a few patrons were inside the premises and the agents proceeded to the patio where they observed a group of people drinking and talking. One of this group was later identified as Julie B. Campbell; agents observed her to be loud and slurring her words, unsteady in her gait and she swayed upon standing. Agent Lewis testified that based upon her experience and training, Ms. Campbell was intoxicated. Agent Lewis followed Ms. Campbell as she and a friend entered the barroom where they were served shots of Chocolate Pretzel, an alcoholic beverage. Ms. Campbell held onto her friend as she consumed the shot and returned to the patio. Agent Lewis then spoke to the bartender and informed her that she had observed Ms. Campbell on the patio and that she was intoxicated. Agent Lewis testified that the bartender replied, "I know but she's not driving." At the hearing, Ms. Campbell testified that she felt she was "buzzed."

Ms. Pasquariello and the bartender testified at the hearing and stated that they attempt to be responsible and proactive at their premises and have refused service to patrons if they feel they should not continue to be served, regardless of whether the patron is driving or not.

The determination of factual issues on conflicting testimony is within the province of the Liquor Control Commission. Noyes v. Liquor Control Commission, 151 Conn. 524, 527, 200 A.2d 467 (1964). The Liquor Control Act grants the Liquor Control Commission a liberal discretionary power to determine factual matters with regard to liquor permits and to suspend or revoke the permit after a hearing. Balog v. Liquor Control Commission, 150 Conn. 473, 191 A.2d 20 (1963).

Based upon the substantial evidence and the documents presented at the hearing and the admission of the Respondent, we find the Respondent to be in violation of all counts as alleged. Accordingly, we hereby suspend the Respondent's café liquor permit for three days. However, two days of suspension will be held in abeyance for six months. If there are no violations of Section 30-86, Connecticut General Statutes, for sales to an intoxicated person during such abeyance period, the remaining two-day suspension will be dismissed.

DEPARTMENT OF CONSUMER PROTECTION
LIQUOR CONTROL COMMISSION
BY

Elisa A. Nahas, Esq.
Designated Hearing Officer

Angelo J. Faenza, Commissioner

Stephen R. Somma, Commissioner

Parties:

Denise Pasquariello, Permittee, Cracker Barrel Café, 30 Main Street,
Tariffville, CT 06081

Nonparties:

John Suchy, Director, Liquor Control Division

Connecticut Beverage Journal

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